

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

RODERICK HERBERT,

No. C 06-05532 SBA

Plaintiff,

ORDER

v.

[Docket Nos. 82, 87]

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY and DOES 1-20, inclusive,

Defendants.

This Court granted judgment for defendant State Farm Mutual Automobile Insurance Company on February 14, 2008. *See* Docket No. 77. Plaintiff Roderick Herbert filed a Notice of Appeal on April 2, 2008, *see* Docket No. 81, after his 30-day deadline to do so under Federal Rule of Appellate Procedure 4(a)(1)(A) had passed. On this same day, Herbert filed Motion for Extension of Time to File Notice of Appeal (the "Motion for Extension"), *see* Docket No. 83, and Motion to Shorten Time for Briefing, Hearing and Determination of the Motion for Extension (the "Motion to Shorten Time"), *see* Docket No. 82.¹ On April 8, 2008, State Farm filed a Response regarding the Motion to Shorten Time, *see* Docket No. 88. For the following reasons, the Court denies the Motion to Shorten Time as Moot.

Northern District Civil Local Rule 6-1 provides, in part:

6-3. Motion to Change Time.

(a) Form and Content. A motion to enlarge or shorten time may be no more than 5 pages in length and must be accompanied by a proposed order and by a declaration that:

(c) Opposition to Motion to Change Time. Unless otherwise ordered, a party

¹ Herbert, however, failed to E-file these pleadings. Herbert is ordered to comply with the Clerk's Notice dated April 3, 2008, *see* Docket No. 87, within three court days of the date of this Order.

1 who opposes a motion to enlarge or shorten time must file an opposition not to
2 exceed 5 pages, accompanied by a declaration setting forth the basis for opposition,
3 no later than the third court day after receiving the motion....

4 (d) Action by the Court. After receiving a motion to enlarge or shorten time
5 and any opposition, the Judge may grant, deny, modify the requested time change or
6 schedule the matter for additional briefing or a hearing.

7 N.D. Cal. Civ. L.R. 6-1.

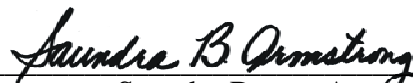
8 In this case, the Court has not set a hearing on Roderick's Motion for Extension. Thus there
9 is no hearing time to shorten. Despite State Farm's non-opposition, the Court denies the Motion to
10 Shorten Time as moot. The Court notes, however, in its statement of non-opposition, State Farm did
11 request an opportunity to respond to the Motion for Extension. Although it should have filed a
12 response, under Civil Local Rule 6-1(d), without waiting for leave from the Court, the Court
13 nonetheless grants it three Court days from the date of this Order to file a response, under Civil
14 Local Rule 6-1(d). Federal Rule of Civil Procedure 6(a)(2) shall not apply to this briefing schedule.
15 Herbert shall not file any reply. Unless the Court notifies the parties otherwise, no hearing will be
16 set for the Motion, as the Court will consider the matter submitted on the pleadings, when State
17 Farm's response is filed.

18 CONCLUSION

19 The Court DENIES plaintiff Roderick Herbert's Motion to Shorten Time for Briefing,
20 Hearing and Determination of Motion to Extend Time to File a Notice of Appeal [Docket No. 82] as
21 Moot. State Farm has three court days from the date of this Order to file a response, as discussed
22 above. Lastly, Herbert shall comply with the Clerk's Notice dated April 3, 2008 [Docket No. 87],
23 within three court days of the date of this Order.

24 IT IS SO ORDERED.

25 May 15, 2008

26 
27 Sandra Brown Armstrong
28 United States District Judge